

In the United States Bankruptcy Court
for the
Southern District of Georgia
Savannah Division

In the matter of:)	
)	Chapter 13 Case
EVELINA JACKSON)	
)	Number <u>96-40209</u>
<i>Debtor</i>)	

ORDER ON DEBTOR'S MOTION TO ALLOW LATE CLAIM

This matter comes before the Court on Evelina Jackson's Motion to Allow the Late Claim of American Express. This proceeding is a core matter under 28 U.S.C. § 157(b)(2)(B). For the following reasons, the Court will deny Debtor's motion.

_____ On January 26, 1996, Debtor filed for Chapter 13 bankruptcy protection. Debtor did not list American Express as a creditor on her original petition. On December 6, 1996, Debtor filed a Motion to allow the late claim of American Express. That claim stated that "Debtor is obligated to American Express in the amount of \$2,971.94 . . . but the creditor was left out of the original petition." On December 16, 1996, Sylvia Ford Brown, the Chapter 13 Trustee, filed a response requesting a hearing to determine whether (1) the obligation was incurred pre-petition or post-petition and (2) whether the

creditor had consented to the matter.

On January 28, 1997, this Court held a hearing at which time there was no appearance by the Debtor or counsel for American Express. The Court then asked counsel for the Debtor, Ms. Barbara Braziel, a series of questions, including (1) whether the Debtor used the credit card after filing, (2) how the \$2,971.94 amount was derived, (3) if there was a bill, (4) how the claim came to their attention, and (5) why was it omitted. In response, Ms. Braziel stated to the Court that she would contact American Express to determine whether the Debtor used the credit card post-petition. The matter was taken under advisement.

On April 7, 1997, Ms. Braziel contacted the Court by letter dated April 3, 1997, and stated that American Express had not responded to her written request of January 29, 1997. Accordingly, because neither Debtor nor Debtor's counsel has provided this Court with any evidence sufficient to support the granting of Debtor's Motion either prior to or during the three months subsequent to the January 28, 1997, hearing, Debtor's Motion is denied.

ORDER

Pursuant to the foregoing, IT IS THE ORDER OF THIS COURT that

Debtor's Motion to Allow the late claim of American Express is hereby DENIED.

Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This ____ day of April, 1997.